

Mona R. Conway, Esq. (MC-4673)  
CONWAY BUSINESS LAW GROUP, P.C.  
*Attorneys for Plaintiff*  
33 Walt Whitman Road  
Suite 310  
Huntington Station, N.Y. 11746  
(631) 424-0999

**FILED**  
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U.S. DISTRICT COURT E.D.N.Y.

★ AUG 27 2009 ★

LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**CV - 09 3739**

-----X  
ARIEL FLEURIMOND,

Plaintiff,

-against-

NEW YORK UNIVERSITY,

Defendant.  
-----X

CIVIL ACTION  
COMPLAINT

**SPATT, J.**

**TOMLINSON, M**  
JURY TRIAL DEMANDED

Plaintiff, ARIEL FLEURIMOND, by her attorneys, CONWAY BUSINESS LAW  
GROUP, P.C., respectfully alleges the following upon information and belief:

**NATURE OF THE CASE**

1. This is an action for damages against defendant, NEW YORK UNIVERSITY for infringement of plaintiff, ARIEL FLEURIMOND's copyrighted material.

**JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338 and 17 U.S.C. § 501.
3. Venue is proper in the Eastern District of New York pursuant to 28 U.S.C. §§ 1391 (b) and 1400.

**PARTIES**

4. Defendant NEW YORK UNIVERSITY is an educational, non-profit corporation, duly organized and existing under the laws of New York State and does business within the jurisdiction of the above-titled Court.

5. Plaintiff, Ariel Fleurimond is an individual residing in the State of New York, in the County of Suffolk.

### **FACTS**

6. Plaintiff, Ariel Fleurimond is the sole creator and copyright owner of a design named “Orion” by Plaintiff, a caricatured drawing of a cougar.

7. Orion was created at the request of Defendant, in contemplation of using a new mascot for Defendant, New York University’s athletic department.

8. Prior to the filing of this action, Orion was registered by Plaintiff with the United States Copyright Office.

9. Within three years of this filing, Defendant, New York University commenced duplicating, manufacturing, distributing and selling, in the United States and the jurisdiction of the above-titled Court, a myriad of tangible items bearing Fleurimond’s design, Orion, such as clothing and memorabilia, which has been sold to the general public, all without Plaintiff’s prior knowledge, authorization or consent.

10. Within three years of this filing, Defendant, New York University used Fleurimond’s design, Orion, to promote its athletic department, using Plaintiff’s design on flyers, posters, New York University’s website and New York University’s gymnasium fixtures and uniforms, all without Plaintiff’s prior knowledge, authorization or consent.

11. Defendant, New York University has been using Fleurimond’s design, Orion, as its athletic department’s official mascot without Plaintiff’s prior knowledge, authorization or consent; such use constitutes thousands of events of infringement.

### **ACTION**

12. Pursuant to 17 U.S.C. § 106 (1), § 106 (2), § 106 (3), and § 115, Defendant, by its acts set forth herein, infringed on Plaintiff's copyrights.

13. Plaintiff further asserts that such acts by Defendant were intentional and willful.

14. Plaintiff is informed and believes that Defendant intends to continue to infringe Plaintiff's copyright unless enjoined by this Court.

15. Such misconduct has caused and will continue to cause Plaintiff great and irreparable harm.

16. Plaintiff has no adequate remedy at law and is, therefore, entitled to and hereby requests the issuance of a permanent and final injunction against Defendant's further duplication, manufacture, distribution and sale of all products bearing Plaintiff's copyrighted design, pursuant to 17 U.S.C. § 501 and § 502.

17. Plaintiff is entitled to reasonable attorney's fees pursuant to 17 U.S.C. § 505.

WHEREFORE, Plaintiff demands judgment as follows:

1. For damages for copyright infringement pursuant to 17 U.S.C. § 504.
2. For damages for willful copyright infringement pursuant to 17 U.S.C. § 504 (d).
3. For an Order that Defendant be required to deliver up on oath, to be impounded during the pendency of this action, all apparel, accessories, flyers, posters, furnishings, webpages, stationary and any other items manufactured, distributed or offered for sale in violation of Plaintiff's rights, and any material used or to be used for their duplication, manufacture, distribution or sale and that, at the conclusion of this action, the Court order the infringing materials so held, or otherwise in the possession or control of Defendant or its agents or employees, to be surrendered to Plaintiff or to be destroyed pursuant to 17 U.S.C. § 503, whichever shall be seem to this Court to be the most just and proper.
4. For such other and further relief as this Court deems just and proper.

Dated: August 20, 2009

CONWAY BUSINESS LAW GROUP, P.C.



By: Mona Conway, Esq. (MRC-4673)

*Attorneys for Plaintiff*

33 Walt Whitman Road

Suite 310

Huntington Sta., NY 11746

T: 631- 424-0999

F: 631-824-9116

E: mrconway@optonline.net